IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Bail Appl..No. 5706 of 2007()

AGAINST THE ORDER DATED / / IN LP.13/2006 IN CC.284/2003 of J.M.F.C.-I, PERINTHALMANNA
CRIME NO.66/03 OF KOLATHUR POLICE STATION

.....

PETITIONER/2ND ACCUSED

KUNHAMU, S/O. IBRAHIM,
PALAPURATH KOTTETH HOUSE, PANG DESOM,
PERINTALMANNA TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.DEVIDAS.U.K

RESPONDENTS: COMPLAINANT

STATE OF KERALA, THROUGH
SUB INSPECTOR, KOLATHUR, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5706 OF 2007

Dated this the 17th day of September, 2007

ORDER

The petitioner faces indictment in a prosecution under Secs.323 and 324 read with Sec.34 of the IPC. Crime was registered in 2003. Final report was filed. Cognizance was also taken in 2003. The petitioner entered appearance and was enlarged on bail. Subsequent to his non-appearance, a warrant of arrest has been issued against him by the learned Magistrate. The case has been transferred to the list of Long Pending Cases. The warrant of arrest issued by the learned Magistrate to procure the presence of the petitioner is chasing him.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful; but was due to beyond his control. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail.

The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned

Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge